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09/349,676	07/08/1999	KRISTEN DIANE ONDECK	PHA-23.681	6934

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EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/349,676

Applicant(s)

ONDECK, KRISTEN DIANE

Examiner

Jean D Janvier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-24 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **Response To Amendments**

The Examiner does not approve the new title of the invention. A preferred and suggested title is --A method for customizing a base product based on a retailer's identification--.

### **DETAILED ACTION**

#### ***Specification***

The title of the invention is not descriptive so as to help one having ordinary skill in the art understand the nature of the subject matter. A new title is required that is clearly indicative of the invention to which the claims are directed (See 37 C.F.R. 1.72).

#### **Status of the claims**

Claims 1-9 were canceled and claims 10-24 were added. Claims 10-24 are now pending in the Instant Application.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In

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carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673

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(1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but

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rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. This dichotomy has been recently acknowledged by the Board of Patent Appeals and Interferences (BPAI) in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

Claims 10-19 and 20-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter. In fact, the process or steps disclosed in independent claims 10 and 20 pertain to a manual process and therefore, the claims do not fall within the technological art. In other words, the steps or process of **providing at least one base product.... receiving registration information.... and transmitting customization information....**, as recited in claims 10 and 20, should be implemented via a device, such as a computer system, a database, a data communication, computer network, the Internet and so and so forth.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Indeed there is no clear support for the newly added limitation “wherein the base product comprises an electronic device selected from the group consisting of a remote control, a personal digital assistant, a television receiver and a radio”. However, the information provided in the specification supports “wherein the base product comprises an electronic device selected from the group **comprising** a remote control, a personal digital assistant, a television receiver and a radio”. Therefore, the claim will be examined accordingly.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). It is not clear to one of ordinary skill in the art how a remote control or radio will be able to store Software and receive upgrade downloaded over a communication network, as recited in claim 12. Correction is required.

### ***Duplicate Claims***

Claim 10 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 20. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

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to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scroggie et al. (Scroggie hereinafter), WO 97/23838 in view of Goldman et al. (Goldman hereinafter), US Patent 6, 473, 099 B1.

As per claims 10 and 24, Scroggie discloses, in one embodiment of the invention, an incentive distribution system wherein incentives are customized or targeted to a specific customer based on the customer's purchase history (previous purchase), stored in D/B 502, collected at a retailer's store after the sale of one or more products (base products) and provided to a product manufacturer or distributor or System Administrator and wherein the purchase history data comprising at least one product sold at an identified retailer's (providing a product or base product to an identified retailer for sale) and wherein transaction data related to the sale of the at least one product are used by the manufacturer of the at least one product to further target the purchaser or identified customer by delivering or preparing at least one specifically



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targeted incentive to the identified customer, based on the purchase of at least one product sold by the identified retailer, by transmitting the one specifically targeted incentive to the consumer's computer 510 via electronic mail or e-mail address stored in a consumer database 506 containing customer's registration information or via a personal web page in the computer network established for the consenting consumer or identified customer and wherein the one specifically targeted incentive may be redeemable at the identified retailer's store for the customer's or consumer's convenience (customization process). Furthermore, the personal web page is used to display the at least one specifically customized or targeted incentive including a shopping list to the user or customer whenever he/she logs into the network and wherein the web page is also customized using, among other things, the purchase history 502 (purchase history stored in D/B 502) collected at the retailer's store. Here, it is to be understood that the customized or personal web page will display on the user's computer targeted incentives created specifically for the user based on the user demographic data, purchase history data and most of all based on information specific to the retailer, such as the location of one of his stores in the user's geographical area, from whom the at least one product or base product was purchased by the user or customer. In addition, data from the purchase history D/B 502 and data from available incentives D/B 622 are merged and used to create or generate targeted incentives to be displayed on the consumer's personal web page. Moreover, the personal web page contents are constantly being updated (customization includes content information) and the personal D/B 606 is updated to reflect these changes as well and wherein the customer is notified by e-mail that his personal web page has been updated. The customer can subsequently go or visit his personal web page and view the newly updated personal web page or personal portal comprising a display of targeted incentives

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(customization information is received and displayed on the user's personal computer).

Additionally, the use of the personal web page permits manufacturers and retailers to focus incentives on specific or registered consumers, based on demographic data and prior purchasing data in the customer's personal database 606, wherein the focused incentives are displayed on the user's personal web page and represent by default an advertisement for the manufacturer(s) whose products are associated with the displayed focused incentives and the for retailer(s), who sold at least the one product or base product, whose stores' names are printed thereon as redemption locations, as known in the art (providing advertising space to the retailer).

(See abstract; figs. 14-18; page 19: 15 to page: 21: 21; page 22: 2 to page 23: 22).

Scroggie does not necessarily disclose the steps of registering by the customer the at least one product or base product sold by the identified retailer and storing customization information in the base product or the at least one product sold.

However, Goldman teaches a system for automatically upgrading or updating Software, over a communication link such as a satellite link in conjunction with the Internet, currently installed or running on a client machine or base product (computer, WebTV set-top-box, handheld device or PDA) when such an upgrade or update, for example an Internet browser upgrade or patch, becomes available at a Remote Server or WebTV Server (base product running an upgradeable Software and operable to install and store a software update thereon). The download of the upgrade to the client may be mandatory or optional and thus, the mandatory upgrade may be performed automatically whereas the user of the client may be prompted to

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decide whether to accept the optional upgrade (download instructions). The system eliminates the need for the client to be actively communicating with network infrastructure for the download to occur and enables the download to take place during low traffic time. The download requires little or no input from the user at the client (See abstract; figs. 1, 3 and 6-11; col. 2: 12-62; col. 4: 19-64; See also claims 2, 5, 10 and 23 of the Goldman's reference). It should further be understood that upon purchasing a client device or machine (base product), such a computer, WebTV having a set-top box, handheld device or PDA, etc., the purchaser or the customer or the user must fill out a registration form, including specifying the retailer or the location of the transaction, associated with the purchased product or base product or client device where the purchaser provides answers to a questionnaire to thereby guarantee the purchased product in case the purchased item or product becomes defective (registration process), as known in the art.

In addition, it is common practice, using information provided to a system manufacturer or distributor by a customer on a purchased product or computer system (TV, handheld device) registration form, for a retailer or more specifically a computer distributor or manufacturer to further target the specific customer based on his purchase or purchasing tendencies or transaction tendencies or habits ((high-end, low-end or entry level, standard or mid-range), system type (brand's name, OEM or IBM compatible or clones or custom-built or built- to- order system), notebook or laptop, desktop (desktop case or tower case or housing), and so on), extracted from a database or registration forms collected over a certain period of time. For example, a purchaser of a new computer system can be offered a chance to upgrade his system in the future at a discounted price or receive continuous free software (drivers and operating system patches) downloads. In the case of ongoing free software download, it is well documented in the art that

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McAfee Anti-virus software installed on a client machine will periodically and automatically upgrade itself with little or no user's intervention as long as the client has an Internet connection. Additionally, Gateway 2000, a computer manufacturer, upon selling a new computer system to a customer promises or advertises in an effort to boost sales that the customer can trade in this new system (later on low performer) in two years for a brand new and more powerful computer system using the dollar figure associated with the trade in to reduce the price of the new powerful system and wherein registration information provided by purchasers of the new systems and stored in a database helps track the purchasers of the new systems scheduled to be traded in a two-year time frame (further target the purchasers using prior purchase history), thereby converting a one time customer into a loyal customer by maintaining a business relationship with the said customer while bringing him/her back to a Gateway Country store or Gateway website to complete the trade in and hence receive the new and more powerful computer system, subsequent to paying a balance due, as promised.

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure into Scroggie's customized incentive system so as to include a client machine (computer system, handheld device, WebTV having a set-top box, etc.) as a product or base product sold at a participating or identified retailer and record in a database, in a manner similar to recording other transaction data, the customer's transaction involving, for example, the purchase of a computer system, wherein data related to this transaction, such as system speed, system type, date of purchase, etc., are recorded or stored in the database and used, along with the system registration information received from the

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customer, to further target the said customer by providing the customer with a discount coupon on a new computer system, system upgrade, extended warranty service and so on, or ongoing free software or patches downloads in accordance with the currently stored or installed application programs, OS and drivers information extracted from the client or computer system registration form submitted by the purchaser or the purchase transaction data read from the database and wherein the software or patches (software upgrade or customization information) are downloaded to the client machine or computer system (WebTV set-top box, handheld device) for installation and permanent storage, thereby boosting sales by bringing the customer back to a participating or identified retailer's store to redeem the discount coupon upon, for instance, purchasing the new system and/or maintaining a good relationship with the customer by providing him with free software upgrade in an effort to keep his system or client machine running smoothly while preventing the customer from buying a similar or comparable system from a competitor by encouraging him/her to patronize a participating store or retailer and/or brand name since the customer can only redeem the discount coupon at a participating or specific POS upon purchasing a specific new and more powerful system.

As per claims 11-14, 16-17, 21 and 23, Scroggie does not necessarily disclose purchasing an electronic device (handheld device, set-top box) having an upgradeable Software (software application) encoded thereon, transmitting customization information to the electronic device or leasing the electronic device.

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However, Goldman teaches a system for automatically upgrading or updating Software, over a communication link such as a satellite link in conjunction with the Internet, currently installed or running on a client machine or base product (computer, WebTV set-top-box, handheld device or PDA) when such an upgrade or update, for example an Internet browser upgrade or patch, becomes available at a Remote Server or WebTV Server (base product running an upgradeable Software and operable to install and store a software update thereon). The download of the upgrade to the client may be mandatory or optional and thus, the mandatory upgrade may be performed automatically whereas the user of the client may be prompted to decide whether to accept the optional upgrade (download instructions). The system eliminates the need for the client to be actively communicating with network infrastructure for the download to occur and enables the download to take place during low traffic time. The download requires little or no input from the user at the client (See abstract; figs. 1, 3 and 6-11; col. 2: 12-62; col. 4: 19-64; See also claims 2, 5, 10 and 23 of the Goldman's reference). It should further be understood that upon purchasing a client device or machine (base product), such a computer, WebTV having a set-top box, handheld device or PDA, etc., the purchaser or the customer or the user must fill out a registration form, including specifying the retailer or the location of the transaction, associated with the purchased product or base product or client device where the purchaser provides answers to a questionnaire to thereby guarantee the purchased product in case the purchased item or product becomes defective (registration process), as known in the art.

In addition, it is common practice, using information provided to a system manufacturer or distributor by a customer on a purchased product or computer system (TV, handheld device) registration form, for a retailer or more specifically a computer distributor or manufacturer to

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further target the specific customer based on his purchase or purchasing tendencies or transaction tendencies or habits ((high-end, low-end or entry level, standard or mid-range), system type (brand's name, OEM or IBM compatible or clones or custom-built or built- to- order system), notebook or laptop, desktop (desktop case or tower case or housing), and so on), extracted from a database or registration forms collected over a certain period of time. For example, a purchaser of a new computer system can be offered a chance to upgrade his system in the future at a discounted price or receive continuous free software (drivers and operating system patches) downloads. In the case of ongoing free software download, it is well documented in the art that McAfee Anti-virus software installed on a client machine will periodically and automatically upgrade itself with little or no user's intervention as long as the client has an Internet connection. Additionally, Gateway 2000, a computer manufacturer, upon selling a new computer system to a customer promises or advertises in an effort to boost sales that the customer can trade in this new system (later on low performer) in two years for a brand new and more powerful computer system using the dollar figure associated with the trade in to reduce the price of the new powerful system and wherein registration information provided by purchasers of the new systems and stored in a database helps track the purchasers of the new systems scheduled to be traded in a two-year time frame (further target the purchasers using prior purchase history), thereby converting a one time customer into a loyal customer by maintaining a business relationship with the said customer while bringing him/her back to a Gateway Country store or Gateway website to complete the trade in and hence receive the new and more powerful computer system, subsequent to paying a balance due, as promised.

Finally, it is well established in the industry that a customer can lease, for instance, a base product, such as a computer, a piece of furniture, a car, etc., instead of buying it from a retailer by signing an agreement wherein the customer might in the end after a certain period of time purchase the used or leased item for a low fee, thereby saving money on maintenance and repair cost.

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure into Scroggie's customized incentive system so as to include a client machine (computer system, handheld device, WebTV having a set-top box, etc.) as a product or base product sold at a participating or identified retailer and record in a database, in a manner similar to recording other transaction data, the customer's transaction involving, for example, the purchase of a computer system, wherein data related to this transaction, such as system speed, system type, date of purchase, etc., are recorded or stored in the database and used, along with the system registration information received from the customer, to further target the said customer by providing the customer with a discount coupon on a new computer system, system upgrade, extended warranty service and so on, or ongoing free software or patches downloads in accordance with the currently stored or installed application programs, OS and drivers information extracted from the client or computer system registration form submitted by the purchaser or the purchase transaction data read from the database and wherein the software or patches (software upgrade or customization information) are downloaded to the client machine or computer system (WebTV set-top box, handheld device) for installation and permanent storage, thereby boosting sales by bringing the customer back to a



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participating or identified retailer's store to redeem the discount coupon upon, for instance, purchasing the new system and/or maintaining a good relationship with the customer by providing him with free software upgrade in an effort to keep his system or client machine running smoothly while preventing the customer from buying a similar or comparable system from a competitor by encouraging him/her to patronize a participating store or retailer and/or brand name since the customer can only redeem the discount coupon at a participating or specific POS upon purchasing a specific new and more powerful system.

As per claims 15, 18-19, 22 and 24, Scroggie discloses, in one embodiment of the invention, an incentive distribution system wherein incentives are customized or targeted to a specific customer based on the customer's purchase history (previous purchase), stored in D/B 502, collected at a retailer's store after the sale of one or more products (base products) and provided to a product manufacturer or distributor or System Administrator and wherein the purchase history data comprising at least one product sold at an identified retailer's (providing a product or base product to an identified retailer for sale) and wherein transaction data related to the sale of the at least one product are used by the manufacturer of the at least one product to further target the purchaser or identified customer by delivering or preparing at least one specifically targeted incentive to the identified customer, based on the purchase of at least one product sold by the identified retailer, by transmitting the one specifically targeted incentive to the consumer's computer 510 via electronic mail or e-mail address stored in a consumer database 506 containing customer's registration information or via a personal web page in the computer network established for the consenting consumer or identified customer and wherein the one

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specifically targeted incentive may be redeemable at the identified retailer's store for the customer's or consumer's convenience (customization process). Furthermore, the personal web page is used to display the at least one specifically customized or targeted incentive including a shopping list to the user or customer whenever he/she logs into the network and wherein the web page is also customized using, among other things, the purchase history 502 (purchase history stored in D/B 502) collected at the retailer's store. Here, it is to be understood that the customized or personal web page will display on the user's computer targeted incentives created specifically for the user based on the user demographic data, purchase history data and most of all based on information specific to the retailer, such as the location of one of his stores in the user's geographical area, from whom the at least one product or base product was purchased by the user or customer. In addition, data from the purchase history D/B 502 and data from available incentives D/B 622 are merged and used to create or generate targeted incentives to be displayed on the consumer's personal web page. Moreover, the personal web page contents are constantly being updated (customization includes content information) and the personal D/B 606 is updated to reflect these changes as well and wherein the customer is notified by e-mail that his personal web page has been updated. The customer can subsequently go or visit his personal web page and view the newly updated personal web page or personal portal comprising a display of targeted incentives (customization information is received and displayed on the user's personal computer). Additionally, the use of the personal web page permits manufacturers and retailers to focus incentives on specific or registered consumers, based on demographic data and prior purchasing data in the customer's personal database 606, wherein the focused incentives are displayed on the user's personal web page and represent by default an advertisement for the

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manufacturer(s) whose products are associated with the displayed focused incentives and the for retailer(s), who sold at least the one product or base product, whose stores' names are printed thereon as redemption locations, as known in the art (providing advertising space to the retailer). (See abstract; figs. 14-18; page 19: 15 to page: 21: 21; page 22: 2 to page 23: 22).

### **Response To Arguments**

Applicant's arguments, as herein presented, are based on the newly amended claims and are fully addressed in the above office action.

### **Conclusion**

Although the following references were not officially used in the office action, they were considered as relevant prior art. Applicant is further directed to review these references.

US Patent 5, 649, 114 to Deaton discloses a patronage incentive system wherein a customer's transaction history is used to provide incentives or coupons, redeemable on specific products, to the customer.

US Patent 6,009,274A to Fletch discloses a method for automatically updating Software components on a client over a network.

US Patent 6, 047, 273A discloses a system and method for remotely providing a remote shipping software upgrade.

US Patent 6, 418, 555 B2 to Mohammed discloses a method for automatically updating Software components on a client over a network.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

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For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-872-9327

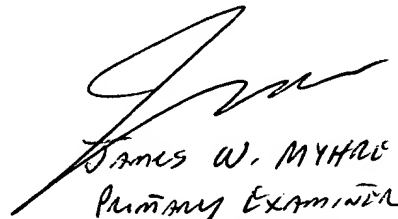
Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

**Please provide support, that is page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.**

JDJ  
08/06/03



JAMES W. MYHRE  
Primary Examiner  
Art Unit 3622